

DIRECTING THE ASSISTANT SECRETARY OF HOMELAND SECURITY (TRANSPORTATION SECURITY ADMINISTRATION) TO ADDRESS VULNERABILITIES IN AVIATION SECURITY BY CARRYING OUT A PILOT PROGRAM TO SCREEN AIRPORT WORKERS WITH ACCESS TO SECURE AND STERILE AREAS OF AIRPORTS, AND FOR OTHER PURPOSES

DECEMBER 11, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1413]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1413) to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ENHANCED PERIMETER SECURITY AND ACCESS CONTROL THROUGH COMPREHENSIVE SCREENING OF AIRPORT WORKERS.

(a) **PILOT PROGRAM.**—Not later than 120 days after the date of the enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall carry out a pilot program at 7 service airports to screen all individuals with unescorted access to secure and sterile areas of the airport in accordance with section 44903(h) of title 49, United States Code.

(b) **PARTICIPATING AIRPORTS.**—At least 2 of the airports participating in the pilot program shall be large hub airports (as defined in section 40102 of title 49, United States Code). At least 1 of the airports participating in the pilot program shall be a category III airport. Each of the remaining airports participating in the pilot program shall represent a different airport security risk category (as defined by the Assistant Secretary).

(c) **SCREENING STANDARDS.**—

(1) **IN GENERAL.**—Except as provided under paragraphs (2) and (3), screening for individuals with unescorted access under the pilot program shall be conducted under the same standards as apply to passengers at airport security screening checkpoints and, at a minimum of 1 airport, shall be carried out by a private screening company that meets the standards in accordance with section 44920(d) of title 49, United States Code. That airport shall be an airport that uses such a private screening company to carry out passenger screenings as of the date of the enactment of this Act.

(2) **DESIGNATED SCREENING LANE.**—In addition to the requirements under paragraph (1), each airport participating in the pilot program shall designate at least one screening lane at each airport security screening checkpoint to be used to screen individuals with unescorted access on a priority basis under the pilot program. Such lane may also be used to screen passengers.

(3) **ALTERNATIVE MEANS OF SCREENING.**—At 1 of the 7 airports participating in the pilot program, the Assistant Secretary shall deploy, instead of the screening standards required under paragraphs (1) and (2), alternative means of screening all individuals with unescorted access to secure and sterile areas of the airport. Alternative means of screening may include—

- (A) biometric technology for airport access control;
- (B) behavior recognition programs;
- (C) canines to screen individuals with unescorted access to secure and sterile areas of the airport;
- (D) targeted physical inspections of such individuals;
- (E) video cameras; and
- (F) increased vetting, training, and awareness programs for such individuals.

(d) **VULNERABILITY ASSESSMENTS.**—As part of the pilot program under this section, the Assistant Secretary shall conduct a vulnerability assessment of each airport participating in the pilot program. Each such assessment shall include an assessment of vulnerabilities relating to access badge and uniform controls.

(e) **TECHNOLOGY ASSESSMENTS.**—Airport operators at each airport at which the pilot program under this section is implemented shall conduct an assessment of the screening technology being used at that airport and submit the results of the assessment to the Assistant Secretary. The Assistant Secretary shall compile the results of all the assessments and provide them to each airport participating in the pilot program.

(f) **OPERATIONAL ASSESSMENTS.**—As part of the pilot program under this section, the Assistant Secretary shall conduct an operational assessment at each airport participating in the pilot program. Each such assessment shall include an evaluation of—

- (1) the effect on security of any increase in terminal congestion created as a result of screening individuals with unescorted access under the pilot program;
- (2) the average wait times at screening checkpoints for passengers and individuals with unescorted access;
- (3) any additional personnel required to screen individuals with unescorted access;
- (4) the effect of screening individuals with unescorted access on other security-related activities at the airport;

- (5) any lost productivity of individuals with unescorted access associated with airport participation in the pilot program; and
- (6) the rate at which “prohibited items” are detected and confiscated from individuals with unescorted access.
- (g) DURATION.—The pilot program shall be carried out for a period of not less than 180 days.
- (h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.
- (i) REPORT.—
 - (1) IN GENERAL.—Not later than 90 days after the last day of the pilot program, the Assistant Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot program.
 - (2) CONTENTS OF REPORT.—The report shall include the following:
 - (A) An assessment of the effect of screening all airport workers with access to secure and sterile airport areas on screening and logistical resources.
 - (B) An assessment of the security improvements that are achieved from screening such workers.
 - (C) An assessment of the costs of screening such workers.
 - (D) The results of the vulnerability assessments conducted under subsection (d).
 - (E) An estimate of the infrastructure and personnel requirements necessary to implement a screening program for individuals with unescorted access at all commercial service airports in the United States in order to process each such individual and each passenger through each screening checkpoint in fewer than 10 minutes.

Amend the title so as to read:

A bill to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports, and for other purposes.

PURPOSE AND SUMMARY

The purpose of H.R. 1413 is to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen individuals with unrestricted access to secure and sterile areas of airports, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Committee believes that unfettered employee access in airport terminals is a security gap in aviation that must be addressed, as in the November 2003, 25 people, mostly current or former employees at John F. Kennedy (JFK) International Airport, were arrested for operating a long-running drug smuggling operation. Another instance occurred in March 2007 at Orlando International Airport, where a Comair employee was arrested at Orlando International for smuggling weapons and drugs aboard a flight to San Juan, Puerto Rico. Then, at JFK in October 2007 employees were caught smuggling drugs through the airport. The Committee believes that the actions taken by H.R. 1413 are long overdue and that this legislation is a reasonable step toward ensuring better security for the Nation’s airports, airplanes, and travelers. The Committee emphasizes that a breach in airport security could have devastating consequences and that, without more rigorous efforts to screen airport employees, these gaps could be repeatedly exploited for the purposes of carrying out criminal, or even terrorist, acts.

HEARINGS

On February 6, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled "Update on Federal Rail and Public Transportation Security Efforts." The Subcommittee received testimony from the Honorable Kip Hawley, Assistant Secretary, Transportation Security Administration, Department of Homeland Security, Mr. Terry Rosapep, Deputy Associate Administrator, Program Management, Federal Transit Administration, Department of Transportation, Mr. Michael Haley, Deputy Chief Counsel, Federal Railroad Administration, Department of Transportation, and Ms. Cathleen A. Berrick, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office.

On February 13, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled "Rail and Mass Transit Security: Industry and Labor Perspectives." The Subcommittee received testimony from Mr. Fred Weiderhold, Inspector General, Amtrak, Ms. Nancy Wilson, Vice President for Security, Association of American Railroads, Mr. Lewis G. Schiliro, Director of Interagency Preparedness, Metropolitan Transportation Authority, State of New York, Mr. Gary Maslanka, International Vice President, Director of Railroad Division, Transport Workers Union, and Mr. John Murphy, Director, Teamster Rail Conference, International Brotherhood of Teamsters.

On April 19, 2007, the Subcommittee on Transportation Security and Infrastructure Protection held a hearing entitled "Airport Security: The Necessary Improvements to Secure America's Airports." The Subcommittee received testimony from Hon. Kip Hawley, Assistant Secretary, Transportation Security Administration, Department of Homeland Security; Ms. Lauren Stover, Assistant Aviation Director for Security and Communications, Miami-Dade Aviation Department; Mr. Greg Principato, President, Airports Council International—North America; and Mr. William E. Holden, Senior Vice President of Operations, Covenant Homeland Security Solutions.

COMMITTEE CONSIDERATION

H.R. 1413 was introduced by Mrs. Lowey and five original cosponsors on March 8, 2007, and referred solely to the Committee on Homeland Security. Within the Committee on Homeland Security, H.R. 1413 was referred to the Subcommittee on Transportation Security and Infrastructure Protection.

On April 24, 2007, the Subcommittee on Transportation Security and Infrastructure Protection met in open markup session and ordered H.R. 1414 to be forwarded to the Full Committee for consideration, as amended, by unanimous consent.

On August 1, 2007, the Full Committee met in open markup session and ordered H.R. 1413 favorably reported to the House of Representatives, amended, by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

On April 24, 2007, the Subcommittee on Transportation Security and Infrastructure Protection met in open markup session and ordered H.R. 1414 to be forwarded to the Full Committee for consideration, as amended, by unanimous consent.

The following amendment was offered:

An amendment offered by Ms. Jackson-Lee (#1); on Page 2, line 7, after “at” strike “5 service airports to screen all airport workers with access” and insert “7 service airports to screen all individuals with unescorted access”. Page 2, line 10, after “Code.” insert “At one of the seven airports, the Assistant Secretary shall deploy, instead of the screening standards under subsection (c), alternative means of screening all individuals with unescorted access to secure and sterile areas of the airport. Alternative means of screening includes: (1) biometric technology for airport access control; (2) behavior recognition programs; (3) canines to screen airport workers; (4) targeted physical inspections of employees; (5) video cameras; and (6) increased employee vetting, training, and awareness programs.”. Page 2, line 14, before “Each” insert “At least 1 of the airports participating in the pilot program shall be a category III airport.”. Page 2, line 20 after “screening for” delete “airport workers” and replace with “individuals with unescorted access”. Page 2, line 23 after “minimum of” delete “2 airports” and replace with “1 airport”. Page 2, line 24 delete “private screening companies that meet” and replace with “a private screening company that meets”. Page 2, line 26 after “Code.” insert “That airport shall be an airport that uses such a private screening company to carry out passenger screenings as of the date of the enactment of this Act.”. Page 3, line 5, strike “exclusively to screen airport workers under the pilot program.” and replace with “screen individuals with unescorted access on a priority basis under the pilot program. Such lane may also be used to screen passengers.”. Page 3, line 20, insert “(f) OPERATIONAL ASSESSMENTS.—As part of the pilot program under this section, the Assistant Secretary shall conduct an operational assessment at each airport participating in the pilot program. Each such assessment shall include an evaluation of—(1) the effect on security of any increase in terminal congestion created as a result of screening individuals with unescorted access under the pilot program; (2) the average wait times at screening checkpoints for passengers and individuals with unescorted access; (3) any additional personnel required to screen individuals with unescorted access; (4) the effect of screening individuals with unescorted access on other security-related activities at the airport; (5) any lost productivity of individuals with unescorted access associated with airport participation in the pilot program; and (6) the rate at which “prohibited items” are detected and confiscated from individuals with unescorted access.” Page 3, line 21, redesignate subsections (f) through (h) as subsections (g) through (i), respectively. Page 4, line 21, after “conducted under subsection (d).” insert “(E) An estimate of the infrastructure and personnel requirements necessary to implement a screening program for individuals with unescorted access at all commercial service airports in the United States in order to process each passenger or employee through each screening checkpoint in fewer than 10 minutes.”; and to amend the title so as to read: “To direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities

in aviation security by carrying out a pilot program to screen individuals with unrestricted access to secure and sterile areas of airports, and for other purposes.”; was AGREED TO by voice vote.

On August 1, 2007, the Full Committee met in open markup session and ordered H.R. 1413 favorably reported to the House of Representatives, amended, by voice vote.

The following amendments were offered:

The Committee considered a Committee Print showing the text of H.R. 1413 as agreed to by the Subcommittee. The title of the Committee Print was amended so as to read “to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports, and for other purposes.”

The Committee adopted the bill, as amended, by voice vote.

The following amendments were offered:

An amendment offered by Mr. Dent (#1), to insert a new subsection (g) entitled “(g) Suspension” was WITHDRAWN by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1413, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 5, 2007.

Hon. BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1413, a bill to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 1413—A bill to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to address vulnerabilities in aviation security by carrying out a pilot program to screen airport workers with access to secure and sterile areas of airports

H.R. 1413 would direct the Assistant Secretary of Homeland Security, through the Transportation Security Administration (TSA), to test and evaluate alternative means of screening certain individuals employed at airports. Under the bill, TSA would establish pilot projects at seven airports to screen all individuals with unescorted access to secure areas of airports and areas where access is controlled by TSA (known as sterile areas). The legislation would require the agency to initiate those projects within 120 days of enactment, operate them for at least 180 days, and, after ending the projects, report on their results within 90 days.

Based on information from TSA on the cost of similar activities to develop and test screening systems, CBO estimates that implementing H.R. 1413 would cost \$10 million over the 2008–2009 period, assuming appropriation of the necessary amounts. Enacting H.R. 1413 would not affect direct spending or revenues. H.R. 1413 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 1413, contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

H.R. 1413 establishes a pilot project and requires a report to the Congress 270 days after the creation of the pilot project.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Comprehensive screening of airport workers

This section establishes pilot program at seven airports to screen all individuals with access to secure areas. It also dictates that, of the seven airports, at least two must be large hub airports. One must be a category III airport, and one airport shall deploy alternative means of screening all individuals with unescorted access to secure and sterile areas of the airport. Within the scope of this provision, alternative means of screening may include biometric technology for airport access control; behavior recognition programs; canines to screen airport workers; targeted physical inspections of employees; video cameras; and increased employee vetting, training, and awareness programs. Under this section, the remaining airports shall represent a different security risk as defined by the Assistant Secretary, Transportation Security Administration, Department of Homeland Security (Assistant Secretary).

In addition, the Committee believes that when implementing this section the Assistant Secretary should consult with the airport operator, the appropriate air carriers, airport and airline employee organizations and their representatives for each airport under consideration as a site for the pilot program. The effectiveness of the pilot program will be enhanced by such consultation and will help to assure that the pilot program at each participating airport is tailored to the unique infrastructure and physical configuration of that airport. Even, in some instances, conducting screening away from the passenger checkpoint.

The Committee encourages the use of the same equipment and protocols as those established for passengers at security checkpoints. However, the Committee intends for the pilot program to allow individuals with unescorted access to carry necessary items that would otherwise be prohibited under guidelines established by the Assistant Secretary for passenger screening.

The pilot program requires at least one of the airports to be an airport that uses a private screening company instead of Transportation Security Officers to screen passengers. Additionally, all airports must designate at least one separate screening lane for workers, although this provision allows such designated screening lane to be used for passenger screening as well.

This section requires the Assistant Secretary to conduct vulnerability (including access badge and uniform controls) and operational assessments for pilot airports. It requires airport operators

to conduct assessments of screening technology and submit those assessments to the Assistant Secretary, and the Assistant Secretary shall submit a report within 90 days of implementation to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate detailing the status of the program, including program costs and effects, and the status of the vulnerability assessments.

The Committee notes that a Government Accountability Office estimate of more than one million airport workers, including cabin cleaners, maintenance crews, and caterers, are permitted to bypass metal detectors or other physical screening before accessing secure areas. The Committee believes that this security gap has been exploited too many times by workers in the past, as in the November 2003 case where 25 people, mostly current or former employees at John F. Kennedy International Airport, were arrested for operating a long-running drug smuggling operation. Another instance occurred in March 2007 at Orlando International Airport, where a Comair employee was arrested at Orlando International for smuggling weapons and drugs aboard a flight to San Juan, Puerto Rico. The Committee believes that the actions taken by H.R. 1413 are long overdue and that this legislation is a reasonable step toward ensuring better security for the Nation's airports, airplanes, and travelers. The Committee emphasizes that a breach in airport security could have devastating consequences and that, without more rigorous efforts to screen airport employees, these gaps could be repeatedly exploited for the purposes of carrying out criminal, or even terrorist, acts.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported. H.R. 1413 makes no changes to existing law.

ADDITIONAL VIEWS

H.R. 1413 seeks to enhance aviation security through screening employees with access to secure and sterile areas of airports. This legislation requires the Transportation Security Administration (TSA) to conduct a pilot program at seven airports to screen individuals with access to secure and sterile areas. Six participating airports must screen 100 percent of airport workers using passenger screening standards.

While I support efforts to improve security in Security Identification Display Areas (SIDA) of airports, I question the merits of requiring airport employees with access to secure areas to be screened under the same standards as passengers. Unlike passengers, many airport employees must move from the unsecured area of the airport to the SIDA area several times a day. Also, unlike passengers, employees are subject to background checks and other security-related reviews.

Should airport workers want to cause damage within a SIDA, many potential tools of destruction are at their disposal within the secure area. During Subcommittee consideration of H.R. 1413, I introduced an amendment that directs the TSA to select a seventh participating airport to evaluate alternative, and potentially more effective, screening techniques developed in coordination with the TSA. I believe this change will allow the TSA to assess and compare options for screening—but regret that the main focus of the bill's other six pilots remains fixated on the 100 percent screening of employees using passenger standards. As currently drafted, H.R. 1413 inappropriately stacks the deck in favor of one security measure, rather than promoting a balanced review of all available strategies. I believe that an effective pilot would grant TSA greater discretion for testing alternative forms of screening, rather than emphasize 100 percent screening.

The cost of this pilot program is another concern which the Committee failed to adequately address. I am aware of two projected cost estimates for the pilot which vary substantially. The Congressional Budget Office (CBO) recently estimated that implementing H.R. 1413 would cost \$10 million over the 2008–2009 period. However, the United States Commercial Aviation Partnership (USCAP) projects the cost of this temporary, 6-month pilot at between \$116 and \$275 million. The House-passed Department of Homeland Security Appropriations Act for Fiscal Year 2008, H.R. 2638, would provide only \$5 million for a pilot to screen airport workers, but does not mandate 100 percent screening. Similarly, the Senate-passed bill, S. 1644, would provide \$15 million for “various methods” to evaluate screening of airport employees, but also does not mandate 100 percent screening for such pilots. Accordingly, there could be great disparity between the estimated costs and the

amount of federal funding made available for the airport employee screening pilot described in H.R. 1413.

Currently, airports provide a physical plan to enable screening, while the TSA provides the security equipment and the screening staff. H.R. 1413 does not address how such responsibilities will be divided under the pilot program. If TSA receives a 100 percent screening mandate without adequate funding from appropriations, TSA will be forced to shift Transportation Security Officers away from passenger screening lanes in order to staff the pilots. This could result in longer passenger wait times and discourage air travel. On the other hand, forcing airports or airlines to pay the costs of the temporary pilot program would drive up costs, increase prices and perhaps also lower demand, with no clear long-term security benefit to the airport.

H.R. 1413's requirements can have significant consequences to the normal operations of the airport. At least one Category III airport will be involved, and such airports have substantially dissimilar traffic patterns and different security threats than larger airports. Requiring 100 percent screening at a smaller airport could quickly prove that it requires higher financial costs or TSA resources that far outpace the threat of terrorism at that facility. Such a result would discount a crucial 9/11 Commission recommendation that finite resources be expended on the basis of risk.

While I support the underlying goals of this legislation, I have lingering reservations about the scope and cost of the security mandates imposed, and the current lack of funding. Accordingly, I believe that further modifications to the bill may be necessary.

DANIEL E. LUNGREN.

